

OLC 79-2701/2
28 December 1979

MEMORANDUM FOR THE RECORD

SUBJECT: GAO Guidelines on Request for Intelligence Information

- REFERENCES:
- A. Memorandum for DDCI, from Acting Legislative Counsel, dated 16 February 1978, Subject: Dealings with the General Accounting Office (OLC 78-0585)
 - B. Memorandum for DDCI, from Acting Legislative Counsel, dated 27 April 1978, Subject: GAO/Intelligence Community Relationships (BYE 78-113091)
 - C. Memorandum for the Record, from Deputy Legislative Counsel, dated 13 December 1979, Subject: GAO Relationship (OLC 79-3502)

1. For the past several months, informal discussions with representatives of the GAO have taken place on the terms of reference for use in issuing internal GAO guidelines governing requests for intelligence information. This memorandum reports the outcome of these discussions.

2. Formal comments on the guidelines were neither solicited nor provided. Rather, the discussion process provided an opportunity to eliminate areas of contention and concentrate on areas of mutual interest such as improving the quality of GAO's work product and the need to minimize the drain on our resources and assure adherence to our security requirements.

3. A copy of the proposed GAO guidelines is attached. It is important to recognize what the guidelines do and do not do.

a. The guidelines do not:

(1) Grant GAO greater authority for access than presently exists.

(2) Constitute an agreement or contract between the DCI, the CIA or any other element of the Intelligence Community and GAO.

(3) Provide the specific wording on the do's and don't's in every case (a shortfall from our viewpoint but an institutional

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necessity for GAO--the inferred do's and don't's can only be validated through GAO's administration of the guidelines).

b. The guidelines do:

(1) Recognize the statutory and Executive Order responsibility and authority to protect intelligence sources and methods from unauthorized disclosure.

(2) Limit access concerning intelligence activities (as opposed to finished intelligence) to those instances where either GAO's statutory right of access exists or where a chairman of a Congressional committee has jurisdiction over the matter.

(3) As relates to intelligence product:

(a) Eliminates GAO as a conduit to Congressional committees;

(b) Eliminates GAO as a determinant of the quality of the product;

(c) Views access as primarily an aid to assessing the quality of GAO's work products;

(d) Treats information primarily for background purposes with any use in a report to be on a nonattributable basis and in accordance with our security criteria;

(e) Requires a prior agreement if information is to be included or referenced in a GAO report, which in turn provides an opportunity to evaluate security, policy sensitivity and other relevant factors before granting access; and

(f) Recognizes that our resources are finite and limits our need to comment on GAO reports to those instances where the reports contain information, agreed beforehand, to be included or referenced in the report.


(4) The terms of references for the guidelines have been discussed against the background that:

(a) The Intelligence Community has won an exemption from the Comptroller General's enhanced statutory authority proposed under H.R. 24 and S. 1878;

... any expansion of GAO's authority with respect to the Intelligence Community is to be resolved in charter legislation which in the context of S. 2525, Section 124, places GAO under the tight leash of the Congressional intelligence committees; and

(c) GAO has an important role in our Government which can be satisfied without diminution or risk to our special authorities and responsibilities.

The condition to be attached to GAO's access to information of an intelligence nature should be ironed out before access is granted and in a manner consistent with the spirit of the do's and don't's cited in paragraph 3. It is in the mutual interest of GAO and the intelligence agencies that this consistency prevail.



Deputy Legislative Counsel

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Attachment:
As stated

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